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REMARKS

Claim 9 has been amended to more clearly recite the subject matter that the applicant regards as his invention.

Claims 9 and 2-4 were rejected as anticipated by the Landis '803 reference. However, there are very significant structural and functional differences between the invention as claimed in amended claim 9 and the arrangement shown in the Landis reference. Not the least of those difference is that amended claim 9 recites a unitary L-shaped body, whereas the Landis reference discloses a three-piece body consisting of mounting bracket 15, vertical leg 20, and attachment member 16.

As an initial matter, the examiner concluded that the Landis reference "discloses a support bracket for positioning within a rain gutter that includes an overlying gutter cover panel." However, that reference does not disclose an overlying gutter cover panel that extends over a gutter to a point adjacent to a gutter upper front edge, as recited in amended claim 9. Instead, it shows a roof 11 that only partially extends over the gutter, and that roof does not extend to the gutter upper front edge, as claimed in amended claim 9.

The examiner also referred to the back side of element 33 as the first leg mounting surface. But that surface does not contact wall 10, as is recited in amended claim 9 with regard to the first leg of the claimed invention. Additionally, the Landis reference does not show a central panel that extends between mounting surface 33 and a front surface, wherein as claimed in amended claim 9 the central panel is substantially parallel to the first leg longitudinal axis. Further, the first bore at rivet 33 of the Landis reference does not extend through the first leg for receiving

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a bracket fastener for securing the bracket to a substantially vertical building surface, as is recited in amended claim 9. Instead, the bore at rivet 33 only extends through the attachment member 16, which constitutes the second leg (referred to by the examiner as element 30 in the reference). And finally, the Landis reference does not disclose at least one second bore extending into the second leg for receiving a cover panel fastener for securing a front edge of a cover panel to the bracket. The second bore referred to by the examiner as generally at 32 does not receive a cover panel because the reference does not disclose a cover panel.

In order for a reference to anticipate an invention as claimed, the reference must disclose each and every element recited in the claim. Indeed, the tests that must be met in order to warrant a conclusion of anticipation as expressed by the Court of Appeals for the Federal Circuit are quoted in MPEP §2131 as follows:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)..."The identical invention must be shown in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Thus, physical components recited in a claim, as well as other statements constituting limitations, which can, of course, be functional recitations, must be disclosed in the reference in order for a conclusion of anticipation to be warranted. And the disclosure contained in the reference must be such as to be sufficient to enable one skilled in the art to practice the claimed invention based upon the information contained within the four corners of the allegedly anticipatory prior art reference. The teachings of the

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Landis reference, summarized above, fall short of meeting those judicially-mandated requirements that are necessary to warrant a conclusion of anticipation of the present invention as it is claimed in amended independent claim 9.

In addition to not disclosing elements and relationships that are recited in amended claim 9, the Landis reference also does not include the scope of disclosure necessary to enable one of only ordinary skill in the art to practice the claimed invention. In that regard, it has been held that:

For prior art to anticipate under 35 U.S.C. § 102(a) because it is "known," the knowledge must be publicly accessible, *Woodland Trust v. Flowertree Nursery, Inc.*, 148 F.3d 1368, 1370, 47 USPQ2d 1363, 1365 (Fed. Cir. 1998), and it must be sufficient to enable one with ordinary skill in the art to practice the invention, *In re Borst*, 345 F.2d 851, 855, 145 USPQ 554, 557 (CCPA 1965). *Minnesota Mining & Mfg. Co. v. Chemque, Inc.*, 303 F.3d 1294, 1301, 64 USPQ2d 1270, (Fed. Cir. 2002).

Thus, if a reference is urged to constitute an anticipation of a claimed invention, then one having only ordinary skill in the art should be able to make and use the claimed structure based upon the disclosure contained in the reference. But because the Landis reference does not disclose a gutter cover, it does not disclose a unitary L-shaped body, it does not disclose integrally formed first and second legs; it does not disclose a central panel extending between a mounting surface and a front surface of a first leg, it does not disclose a stop surface for abutment with and for positioning a front edge of a gutter cover panel, and it does not disclose an upwardly-facing flat surface means carried by the first leg for engaging a rear surface portion of a gutter cover panel, there is not sufficient disclosure in the Landis reference to enable one to practice the claimed invention.

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Consequently, the Landis reference does not anticipate the invention as it is claimed in amended claim 9.

Claims 2 through 4 each depend directly from claim 9, and therefore each of those dependent claims also recites a structural arrangement that is not anticipated by the Landis reference, and for the same reasons as are given above in connection with independent claim 9. Moreover, it should be noted that claim 3 recites a blind bore, which is not disclosed in the Landis reference.

Claims 9, 5-7, 10-13, 15, and 18 were rejected as anticipated by the Morandin et al. '678 reference. However, as was the case with regard to the Landis reference, the Morandin et al. reference is also deficient in that it does not contain disclosure that would enable one of ordinary skill in the art to make the invention as it is claimed in amended claim 9.

In rejecting the claims over the Morandin et al. reference the examiner construed element 33 as the first leg and elements 24 and 26 as the second leg. But there is not a first bore in first leg 33. Instead there is a port 8 in fascia mounting clip 4, which is not the first leg, according to the examiner's construction of the reference. Additionally, there is also not a second bore extending into the second leg 24, 26, because those elements do not contain any bores at all. What the examiner referred to, element 50, is, instead, an upper surface leaf guard fastener (see Morandin et al., col. 4, line 19), which is merely a loop forming part of element 24. Similarly, stop surface 100 as referred to by the examiner is, instead, also a loop, but it does not serve to position the front edge of a gutter cover panel, and it is not positioned below an opening of the at least one second bore, because,

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again, there is no second bore extending into the second leg, as it is claimed in amended claim 9. Consequently, and as was the case in connection with the Landis reference, the Morandin et al. reference does not anticipate the invention as it is claimed in amended claim 9.

Furthermore, because of the several significant structural differences noted above, one of only ordinary skill in the art would not be enabled by the Morandin et al. reference to practice the invention as it is claimed in amended claim 9.

Claims 5-7, 10-13, 15, and 18 each depend from amended claim 9, either directly or indirectly, and therefore each of those claims also recites a structural arrangement that is not anticipated by the Landis reference and for the same reasons as are given above in connection with independent claim 9. Moreover, those dependent claims each contain additional recitations that further distinguish the invention as so claimed for the disclosure contained in the Morandin et al. reference.

Based upon the foregoing amendments and remarks, the claims as they now stand in the application are believed clearly to be in allowable form in that they patentably distinguish over the disclosures contained in the references that were cited and relied upon by the examiner, whether those references be considered alone or in combination. Consequently, this application is believed to be in condition for allowance, and reconsideration and reexamination of the application is respectfully requested with a view toward the issuance of an early Notice of Allowance.

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The examiner is cordially invited to telephone the undersigned attorney if this amendment raises any questions, so that any such question can be quickly resolved in order that the present application can proceed toward allowance.

Respectfully submitted,



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